

# Agenda

## Item #4



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

To: Commissioners

From: Jonathan Wayne, Executive Director

Date: January 19, 2011

Re: Waiver of Late-Filing Penalty/Lewiston Democratic City Committee

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The Lewiston Democratic City Committee was required to file a campaign finance report on October 22, 2010 (11 days before the general election). The report was required because the committee made expenditures exceeding \$1,500 during the 2010 calendar year.

The committee was not required to file reports for 2009, but was required to file reports in 2008.

Roughly three weeks before the October 22, 2010 deadline, the Commission staff mailed postcard reminders (attached) concerning the deadline to Ms. Jermain as the committee treasurer and to Stanley Pelletier, the committee's chair. If they had questions about the filing responsibilities after reading the postcard, they could have called the Commission to ask.

The committee filed the report seven days late on October 29, 2010, after Ms. Jermain called the Commission staff on another topic. The amount of the preliminary penalty was \$119.14, based on the formula in the statute.

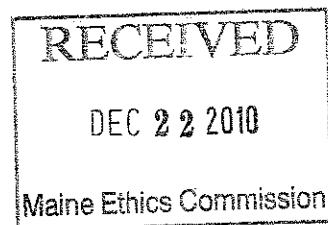
On behalf of the committee, Ms. Jermain requests a waiver of the late-filing penalty because she was not informed by other committee members of the duty to file campaign finance reports.

The Commission staff recommends no waiver and assessing the penalty of \$119.14. The penalty is against the committee, not Ms. Jermain. The amount of the penalty is not disproportionately high. We appreciate that communication within local party committees can be hampered due to turnover in the position of treasurer. In this instance, however, the postcards provided the committee with adequate notice of the filing deadline.

Thank you for your consideration of this memo.

December 21, 2010

State of Maine  
Commission on Governmental Ethics and Election Practices  
135 State House Station  
Augusta, ME 04333-0135



Dear Members of the Commission,

I am responding to a notice regarding the delinquent campaign finance report on behalf of the Lewiston Democratic City Committee (LDCC). I apologize for the unintentional lateness of this response. After reading the first notice I received, I misunderstood what was expected, and mistakenly thought I had to wait to be summoned to the next meeting of the Ethics Commission in order to respond. I had to call Cindy Sullivan to understand what my options were regarding the second notice. Upon her clarification, I am sending the enclosed response.

First, I want to take a moment to also apologize to the Ethics Commission for the delinquency of the campaign finance report. I would like to request a waiver of the penalty due to the following mitigating circumstances.

I was elected in a special election in July 2010 to fill an immediate opening in our committee's officer committee. Before considering accepting the nomination, I asked the committee and the previous treasurer what the time commitments, expectations, and duties of the treasurer were to be. I was not apprised of the need for campaign finance reporting at that time and was elected without that knowledge, despite having asked detailed questions about what the role required of me. I have not had any previous positions, volunteer or otherwise, that required such reporting and so have no experience in finance reporting. I absolutely would not have accepted the nomination to this position had I known that I needed to submit campaign finance reports, due to my lack of experience. I would have left it to be handled by someone with the required knowledge of the process. Further, as I did not know I needed to file a campaign finance report until I was instructed to do so by Cindy Sullivan, I wasn't aware of the lateness of my report. I didn't know there was a report due, nor did I know what the deadline was before speaking with her. I wasn't given the paperwork from the previous treasurer that I needed to access the LDCC account in order to file our report. I had to have Cindy provide me the login information. Once I entered the reporting page on the website, it took me a large amount of time to complete as I didn't know how to fill out the information and had to request a great deal of assistance in order to complete it accurately.

Had I known the full set of responsibilities of the treasurer, I would not have accepted my committee's nomination. I have not had any reporting experience, and was not qualified, prepared, nor instructed to do so. I am not a person who takes responsibilities lightly, nor shirks even minor duties, nor takes on responsibilities for which I am grossly unqualified. I am not, nor was I ever, qualified to take on campaign finance reporting. I am truly embarrassed that I took on a position that required me to perform duties beyond my

capabilities, despite my best intentions. Upon submitting this letter to the Ethics Commission, I will be submitting my letter of resignation to my city committee, in hopes that someone with experience in campaign finance report will replace me.

I am willing and able to cooperate and to resolve this matter immediately and completely, upon hearing from the members on this matter.

I appreciate your help, patience, and understanding. I apologize sincerely to the Ethics Commission for the continued misunderstanding on my part.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrea Jermain', with a stylized flourish at the end.

Andrea Jermain  
59 Webster Street #3  
Lewiston, ME 04240



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
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**SECOND NOTICE**

December 17, 2010

**By Certified and Regular Mail**

Andrea Jermain, Treasurer  
Lewiston Democratic City Committee  
59 Webster Street, #3  
Lewiston, Maine 04240

Re: Lewiston Democratic City Committee

Dear Ms. Jermain:

The Ethics Commission previously notified you on 11/1/2010 regarding your delinquent campaign finance report which was due on 10/22/2010 resulting in a penalty of \$119.14.

**The Commission staff will send you a final penalty notice in January of 2011. If you fail to pay the penalty after receiving the final notice, you will be guilty of a Class E crime and may be subject to a penalty of no more than \$5,000. The Commission staff will recommend referral of the delinquent penalty to the Attorney General at the Ethics Commission's meeting on February 17, 2011 if the penalty has not been paid before that date. The Commission customarily refers all delinquent penalties to the Attorney General for criminal prosecution. The Commission may also impose a penalty on you at that meeting.**

If you have any questions please telephone me at (207) 287-4179. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cindy Sullivan".

Cindy Sullivan  
PAC, Party, Lobbyist Registrar



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

November 1, 2010

**By Certified and Regular Mail**

Andrea Jermain, Treasurer  
Lewiston Democratic City Committee  
59 Webster Street, #3  
Lewiston, Maine 04240

Re: Late filing of 11-day pre-general campaign finance report for Lewiston Democratic City Committee

Dear Ms. Jermain:

The 11-day pre-general campaign finance report for the above mentioned party committee was received by our office on October 29, 2010. These reports were due on October 22, 2010 by 11:59 pm.

Penalties for late reports are based on the amount of financial activity during the filing period, the number of calendar days a report is filed late, and the committees filing history. Based on this formula the penalty for the late filing is \$119.14. Please refer to the enclosed penalty matrix for more information.

If you believe you have a valid reason for filing late, you may request that the Commission review your case make a final penalty determination. Any request for a Commission determination must be made within 10 calendar days of receiving this notice, beginning the day you sign for receipt. If this notice has been refused or left unclaimed at the post office, the 10-day period will begin on the day the post office indicates that it gave first notice of a certified letter. Upon receipt of your request for a Commission determination, we will schedule you to appear before the Commission at the next regularly scheduled meeting. You may appear before the Commission personally, designate a representative to appear on your behalf, or submit a written statement in which you provide an explanation of the mitigating circumstances you wish the Commission to take into consideration. The Commission will notify you of the disposition of your case within 10 days after its determination.

Please direct any questions you may have about this matter to me at 287-6221.

Sincerely,

Cindy Sullivan  
PAC, Party & Lobbyist Registrar

Enclosure: (1)

# COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

## PENALTY MATRIX FOR LATE PARTY COMMITTEE REPORT FILINGS

### BASIS FOR PENALTIES 21-A M.R.S.A. Section §1020-A

<b>Committee Name:</b>	Lewiston Democratic City Committee	<b>Report Title:</b>	11-Day Pre-General
		<b>Due Date:</b>	October 22, 2010
<b>Previous Violation(s):</b>	0	<b>Filed Date:</b>	October 29/2010

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

- For the first violation, 1%
- For the second violation, 3%
- For the third and each subsequent violation, 5%

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

Penalty Example:	Your Penalty is calculated as follows:										
<p>The treasurer files the party's report two (2) days late. The party has not had any previous late violations this biennium. The party reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Contributions / Expenditures:</td> <td style="width: 20%; text-align: right; border-bottom: 1px solid black;">\$1,702.33</td> </tr> <tr> <td>Percent Prescribed:</td> <td style="text-align: right; border-bottom: 1px solid black;">1%</td> </tr> <tr> <td></td> <td style="text-align: right; border-bottom: 1px solid black;">\$17.02</td> </tr> <tr> <td>Number of days late:</td> <td style="text-align: right; border-bottom: 1px solid black;">7</td> </tr> <tr> <td>Total penalty accrued:</td> <td style="text-align: right; border-bottom: 3px double black;">\$119.14</td> </tr> </table>	Contributions / Expenditures:	\$1,702.33	Percent Prescribed:	1%		\$17.02	Number of days late:	7	Total penalty accrued:	\$119.14
Contributions / Expenditures:	\$1,702.33										
Percent Prescribed:	1%										
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Number of days late:	7										
Total penalty accrued:	\$119.14										
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; text-align: right;">\$2,500</td> <td style="width: 90%;">Greater amount of the total contributions received or expenditures made during the filing period</td> </tr> <tr> <td style="text-align: right;">X .01</td> <td>Percent prescribed for first violation</td> </tr> <tr> <td style="text-align: right;">\$25.00</td> <td>One percent of total contributions</td> </tr> <tr> <td style="text-align: right;">X 2</td> <td>Number of calendar days late</td> </tr> <tr> <td style="text-align: right;">\$50.00</td> <td>Total Penalty</td> </tr> </table>	\$2,500	Greater amount of the total contributions received or expenditures made during the filing period	X .01	Percent prescribed for first violation	\$25.00	One percent of total contributions	X 2	Number of calendar days late	\$50.00	Total Penalty	
\$2,500	Greater amount of the total contributions received or expenditures made during the filing period										
X .01	Percent prescribed for first violation										
\$25.00	One percent of total contributions										
X 2	Number of calendar days late										
\$50.00	Total Penalty										

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

### MAXIMUM PENALTIES

21-A M.R.S.A. Section 1020(5-A)(D)

\$500 for municipal, district and county committees



## 21-A MRSA § 1020-A. FAILURE TO FILE ON TIME

**1. Registration.** A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

[ 1995, c. 483, §15 (NEW) .]

**2. Campaign finance reports.** A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §5 (AMD) .]

B. An error by the commission staff; [1999, c. 729, §5 (AMD) .]

C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (AMD) .]

D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service. [2009, c. 190, Pt. A, §13 (AMD) .]

[ 2009, c. 190, Pt. A, §13 (AMD) .]

**3. (TEXT EFFECTIVE UNTIL 8/1/11) Municipal campaign finance reports.** Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

[ 1995, c. 625, Pt. B, §5 (AMD) .]

**3. (TEXT EFFECTIVE 8/1/11) Municipal campaign finance reports.\*** Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk in a town or city that has chosen to be governed by this subchapter on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

[ 2009, c. 366, §12 (AFF); 2009, c. 366, §6 (AMD) .]



COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES  
Mail: 135 State House Station, Augusta, Maine 04333  
Office: 45 Memorial Circle, Augusta, Maine

Website: [www.maine.gov/ethics](http://www.maine.gov/ethics)  
Phone: 207-287-4179  
Fax: 207-287-6775

## 2010 CAMPAIGN FINANCE REPORT

### FOR PARTY COMMITTEES

COMMITTEE INFORMATION		
LEWISTON DEMOCRATIC CITY COMMITTEE  213 LISBON STREET LEWISTON, ME 04240	TEL: (207)282-5704 FAX: E-MAIL:	
TREASURER		
ANDREA JERMAIN 59 WEBSTER STREET #3 LEWISTON, ME 04240	TEL: (207)838-4001 FAX: E-MAIL: <a href="mailto:aljermain@gmail.com">aljermain@gmail.com</a>	
TYPE OF REPORT	DUE DATE	REPORTING PERIOD
11-DAY PRE-GENERAL	10/22/2010	7/1/2010 - 10/19/2010
NO FINANCIAL ACTIVITY IN THIS REPORTING PERIOD FOR SCHEDULES A1, C, D		
CERTIFICATION		
<p>I, ANDREA JERMAIN, CERTIFY THAT THE INFORMATION CONTAINED IN THIS REPORT IS TRUE, ACCURATE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.</p> <p>REPORT FILED BY: ANDREA JERMAIN</p> <p>REPORT FILED ON: 10/29/2010</p> <p>IF THIS REPORT IS FILED BY AN AUTHORIZED AGENT OF THE COMMITTEE, THE TREASURER AND AGENT ARE LIABLE FOR ANY VIOLATIONS OF MAINE CAMPAIGN FINANCE LAW (21-A M.R.S.A. CHAPTER 13) AND THE COMMISSION'S RULES THAT MAY RESULT FROM THE FILING OF A FALSE OR INACCURATE REPORT.</p>		

UNSWORN FALSIFICATION IS A CLASS D CRIME (17-A M.R.S.A. § 453).

LEWISTON DEMOCRATIC CITY COMMITTEE

SCHEDULE A ONLY

### SCHEDULE A CASH CONTRIBUTIONS

- For contributors who gave more than \$200, the name, address, occupation, and employer must be reported. If "information requested" is listed instead of occupation and employer, the committee is waiting to receive that information.
- Cash contributions of \$200 or less can be added together and reported as a lump sum.
- Contributor Types
 

1 - Individuals	4 - Party Committees
2 - Commercial Sources	5 - Candidate Committees
3 - Political Action Committees	6 - Unitemized Contributions

DATE RECEIVED	CONTRIBUTOR	OCCUPATION AND EMPLOYER	TYPE	AMOUNT
07/19/2010			6.00	\$37.50
08/17/2010			6.00	\$38.00
09/15/2010			6.00	\$1,058.00
<b>TOTAL CASH CONTRIBUTIONS ⇨</b>				<b>\$1,133.50</b>

LEWISTON DEMOCRATIC CITY COMMITTEE

SCHEDULE B ONLY

**SCHEDULE B  
EXPENDITURES TO SUPPORT OR OPPOSE**

EXPENDITURE TYPES				
CNS	Campaign consultants	POL	Polling and survey research	
CON	Contribution to other candidate, party, committee	POS	Postage for U.S. Mail and mail box fees	
EQP	Equipment (office machines, furniture, cell phones, etc.)	PRO	Other professional services	
FND	Fundraising events	PRT	Print media ads only (newspapers, magazines, etc.)	
FOD	Food for campaign events, volunteers	RAD	Radio ads, production costs	
LIT	Print and graphics (flyers, signs, palmcards, t-shirts, etc.)	SAL	Campaign workers' salaries and personnel costs	
MHS	Mail house (all services purchased)	TRV	Travel (fuel, mileage, lodging, etc.)	
OFF	Office rent, utilities, phone and internet services, supplies	TVN	TV or cable ads, production costs	
OTH	Other	WEB	Website design, registration, hosting, maintenance, etc.	
PHO	Phone banks, automated telephone calls			
Only these expenditure types require a remark: CNS, OTH, PRO.				

DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
10/18/2010	ELIZABETH H. MITCHELL	Paid to EZR Radio for advertisements authorized by Lewiston Dem City Cmte	CON	\$160.00
	CONTRIBUTION: ELIZABETH H. MITCHELL, GOVERNOR			
TOTAL EXPENDITURES ⇒				160.00

LEWISTON DEMOCRATIC CITY COMMITTEE

SCHEDULE B - 1 ONLY

**SCHEDULE B - 1  
OPERATING EXPENDITURES**

EXPENDITURE TYPES	
CNS Campaign consultants	POL Polling and survey research
CON Contribution to other candidate, party, committee	POS Postage for U.S. Mail and mail box fees
EQP Equipment (office machines, furniture, cell phones, etc.)	PRO Other professional services
FND Fundraising events	PRT Print media ads only (newspapers, magazines, etc.)
FOD Food for campaign events, volunteers	RAD Radio ads, production costs
LIT Print and graphics (flyers, signs, palmcards, t-shirts, etc.)	SAL Campaign workers' salaries and personnel costs
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OTH Other	WEB Website design, registration, hosting, maintenance, etc.
PHO Phone banks, automated telephone calls	
<i>Only these expenditure types require a remark: CNS, OTH, PRO.</i>	

DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
10/18/2010	ANDROSCOGGIN COUNTY LEWISTON, ME 04240		CON	\$1,462.00
09/22/2010	MAC'S DOWNEAST SEAFOOD AUBURN, ME 04210	Lobsters for a lobster raffle winner	FND	\$80.33
<b>TOTAL EXPENDITURES</b> ➡				<b>\$1,542.33</b>

**SCHEDULE F  
SUMMARY SCHEDULE**

<b>CASH ACTIVITY</b>		
<b>RECEIPTS</b>	<b>TOTAL FOR THIS PERIOD</b>	<b>TOTAL FOR THE YEAR</b>
<b>1. CASH CONTRIBUTIONS (Schedule A)</b>	\$1,133.50	\$1,133.50
<b>2. OTHER CASH RECEIPTS (interest, etc.)</b>	\$0.00	\$0.00
<b>3. LOANS (Schedule C, new loans and additional amounts loaned)</b>	\$0.00	\$0.00
<b>4. TOTAL RECEIPTS (lines 1+2+3)</b>	\$1,133.50	\$1,133.50
<b>EXPENDITURES</b>		
<b>5. EXPENDITURES TO SUPPORT OR OPPOSE (Schedule B)</b>	\$160.00	\$160.00
<b>6. OPERATING EXPENDITURES (Schedule B-1)</b>	\$1,542.33	\$1,542.33
<b>7. LOAN REPAYMENTS (Schedule C)</b>	\$0.00	\$0.00
<b>8. TOTAL PAYMENTS (lines 5+6+7)</b>	\$1,702.33	\$1,702.33
<b>OTHER ACTIVITY</b>		
	<b>TOTAL FOR THIS PERIOD</b>	<b>TOTAL FOR THE YEAR</b>
<b>9. IN-KIND CONTRIBUTIONS (Schedule A-1)</b>	\$0.00	\$0.00
<b>10. TOTAL LOAN BALANCE AT END OF PERIOD (Schedule C)</b>	\$0.00	
<b>11. TOTAL UNPAID DEBTS AT END OF PERIOD (Schedule D)</b>	\$0.00	

State of Maine  
Commission on Governmental  
Ethics and Election Practices  
S.H.S. 135  
Augusta, ME 04333-0135

Kathleen Bosse  
Chair  
13 Scotty Lane  
Litchfield, ME 04350

Robin Upton-Sukeforth  
Vice-Chair  
1372 West Rd  
Litchfield, ME 04350

State of Maine  
Commission on Governmental  
Ethics and Election Practices  
S.H.S. 135  
Augusta, ME 04333-0135

Stanley Pelletier  
Chair  
28 S Surry Ln  
Lewiston, ME 04240

Andrea Jermain  
Treasurer  
59 Webster Street, #3  
Lewiston, ME 04240

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**Local Party Filing Deadline  
11-Day Pre-General Report  
Due October 22, 2010**

for all activity from

January 1, 2010 thru October 19, 2010

Local Parties do not have to file a campaign finance report if they did not raise or spend \$1,500 in the reporting period

All single expenditures of \$1,000 or more made between 10/20/10 thru 11/1/2010 need to be reported within 24 hours

All reports must be filed by 11:59 p.m. on the deadline date.

Questions call or email

207-287-6221 or [cindy.sullivan@maine.gov](mailto:cindy.sullivan@maine.gov)

<https://secure.mainecampaignfinance.com/MaineLogin.asp>

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